

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.2.2009
COM(2009) 67 final

2009/0026 (COD)

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Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions

EXPLANATORY MEMORANDUM

- **Grounds for and objectives of the proposal**

The aim of this proposal is to amend the Decision establishing the European Refugee Fund in the light of the creation of the European Asylum Support Office, which will take over responsibility for certain operations that have until now been financed by the Refugee Fund.

- **Background: new challenges in asylum policy and creation of the European Asylum Support Office**

The European Refugee Fund (ERF) was set up by Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" and repealing Council Decision 2004/904/EC[1], on the basis of Article 63(2)(b) of the Treaty establishing the European Community.

The proposal for a Regulation establishing the European Asylum Support Office and this proposal to amend the Decision establishing the ERF 2008-2013 are part of the European Union's efforts to develop a comprehensive asylum policy. They are a response to the requests from the Council and the European Council for the creation of an asylum support structure and form part of the measures announced by the Policy Plan on Asylum adopted by the Commission in June 2008.

The Commission proposes to set up a European Asylum Support Office which will have the institutional status of a regulatory agency and will be responsible for promoting and enhancing practical cooperation between Member States on asylum matters and for helping to support the implementation of the common asylum system.

The Office's institutional status will be that of a regulatory agency; it will thus be a body set up by the Communities, as provided for in Article 185 of the Financial Regulation. Much of its funding will therefore come from a heading in the general budget of the European Communities. In order to supplement the funds allocated to the operation of the Office, and in the interests of simplifying the use of Community funds, and because the European Asylum Support Office will be responsible for some of the tasks currently funded under the ERF, it is necessary to transfer some of the budgetary resources currently allocated to the ERF to the Office, in order to ensure the optimal financing of practical cooperation on asylum matters.

- **Consistency with the other policies and objectives of the Union**

This proposal is fully consistent with the Policy Plan on Asylum adopted by the Commission in June 2008 with a view partly to reinforcing asylum legislation in order to create a common asylum system that is effective and fair to those seeking international protection, and partly to supporting this legislation by enhancing practical cooperation between Member States on asylum matters. It is one of the key elements necessary for creating the new European Asylum Support Office.

- **Legal elements of the proposal**

  - Summary of the proposed measures

The proposed measures seek to amend the Decision establishing the European Refugee Fund for the period 2008 to 2013 in order to achieve a better allocation and concentration of funds between the ERF and the new European Asylum Support Office, in the interests of simplifying

[1] OJ L 144, 6.6.2007, pp. 1-21.

the use of Community funds.

The proposal to amend the Decision establishing the ERF aims first to reduce the scope of the Community actions provided for in Article 4 of the ERF Decision in order to take account of the transfer of two tasks which will in future be entirely the responsibility of the Office, namely those referred to in Article 4(2)(a) relating to further Community cooperation in implementing Community law and good practices, including interpretation and translation services supporting such cooperation, and those in Article 4(2)(f), supporting the development and application by Member States of common statistical tools, methods and indicators for measuring policy developments in the field of asylum.

Secondly, in order to take account of the reduction in the scope of these Community actions, the limit for funding them, laid down in Article 4(1) of the ERF Decision, will be reduced from 10% of the Fund's available resources to 4%.

The proposal also provides for a reduction in the financial envelope for implementing the ERF Decision to free up resources towards the funding of the Office. The amount of EUR 628 million, referred to in Article 12(1) of the ERF Decision, will therefore be reduced to EUR 614 million (the new amount taking into account both the EUR 10 million increase decided by the budgetary authority in the 2009 budget and the EUR 24 million cut resulting from the reduction in the scope of the Community actions).

The proposal to amend the ERF Decision does not alter the general objectives of the ERF.

- Legal basis

The proposal is based on Article 63(2)(b) of the Treaty establishing the European Community, which is the legal basis of the act being amended.

- **Subsidiarity principle**

The need to promote a balance between the efforts made by Member States in establishing a common European asylum system requires a financial contribution aimed at both relieving the pressure on the Member States most affected and developing the capacity of the Member States whose asylum infrastructure and services are inadequate, and presupposes a redistribution of responsibilities at European Union level which cannot be achieved by the Member States in isolation. This principle was recognised for the adoption of Decision No 573/2007/EC. The present act would simply amend the basic act, which is Decision No 573/2007/EC establishing the ERF. To this extent the same principles apply to this proposal for an amendment.

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amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(2)(b) thereof,

Having regard to the proposal from the Commission[2],

Having regard to the opinion of the European Economic and Social Committee[3],

Having regard to the opinion of the Committee of the Regions[4],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[5],

Whereas:

(1) Community policy on the common European asylum system aims, under the terms of the Hague Programme, to establish a common asylum area by means of an effective harmonised procedure consistent with the values and humanitarian tradition of the European Union.

(2) Enormous progress has been achieved in recent years towards the goal of establishing a common European asylum system, thanks to the introduction of common minimum standards. However, there are still sharp disparities between the Member States in the granting of international protection and the form that this takes.

(3) In its Policy Plan on Asylum[6], adopted in June 2008, the Commission announced its intention on the one hand of working to develop the common European asylum system, by proposing a revision of the existing legislative instruments in order to achieve closer harmonisation of the rules in force, and, on the other, of increasing

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2 OJ C […], […], p. […].
3 OJ C […], […], p. […].
4 OJ C […], […], p. […].
5 Opinion of the European Parliament of […] and Council Decision of […].
6 COM(2008) 360 final.

support for practical cooperation between the Member States, for example by a legislative proposal for the creation of a European Asylum Support Office to increase the coordination of operational cooperation between the Member States to effectively implement the common rules.

(4) In the European Pact on Immigration and Asylum, adopted in September 2008, the European Council reiterated that any persecuted foreigner is entitled to obtain aid and protection on the territory of the European Union in application of the Geneva Convention. It was also expressly agreed that a European asylum support office would be established in 2009.

(5) Practical cooperation in the asylum sector is intended to increase the convergence of Member States' decision-making processes in such matters, within the framework of European law. A substantial number of practical cooperation activities have already been undertaken in recent years, notably on a common approach to country of origin information and the establishment of a common European asylum curriculum.

(6) In order to strengthen and develop these measures it is necessary to create a specific structure to support and coordinate them, in the form of a European Asylum Support Office ("the Office").

(7) In the interests of simplifying action to support practical cooperation on asylum matters, and in so far as the Office should be entrusted with some of the tasks which are currently financed under the European Refugee Fund, it is necessary to remove some of the Community actions provided for in Article 4(2) of Decision No 573/2007/EC of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" and amending Council Decision 2004/904/EC[7], in order to ensure the best possible practical cooperation on asylum matters.

(8) In order to take account of the reduction in the scope of Community actions, the limit for funding them, laid down in Article 4(1) of Decision No 573/2007/EC, should be reduced from 10% of the Fund's available resources to 4%.

(9) The financial envelope for the implementation of Decision No 573/2007/EC, referred to in Article 12(1) thereof, should be reduced in order to free up resources for funding the Office,

HAVE ADOPTED THIS REGULATION:

[7] OJ L 144, 6.6.2007, p. 1.

Article 1

Decision No 2007/573/EC is amended as follows:

1) Article 4 is amended as follows:

a) Paragraph 1 is replaced by the following:

"1. At the Commission's initiative, up to 4% of the Fund's available resources may be used to finance transnational actions or actions of interest to the Community as a whole ("Community actions") concerning asylum policy and measures applicable to the target groups referred to in Article 6."

b) Points a) and f) of paragraph 2 are deleted.

2) Article 12(1) is replaced by the following:

"1. The financial envelope for the implementation of this Decision from 1 January 2008 to 31 December 2013 shall be EUR 614 million."

Article 2

This Decision is addressed to the Member States.

Done at Brussels, […]

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Proposal for a Decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions

2. ABM / ABB FRAMEWORK

Policy area: Area of freedom, security and justice (Title 18)

Associated activity: Migration Flows — Common immigration and asylum policies (Chapter 18.03)

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-B.A lines)) including headings:

Financial framework 2007-2013: Heading 3 A:

Chapter 18.03 Migration Flows, common immigration and asylum policies

Article 18.03 03: European Refugee Fund

3.2. Duration of the action and of the financial impact:

2010-2013

3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	EFTA contribution	Heading in financial perspective
European Refugee Fund	NCE	DA[8]	NO	NONE	NONE	No 3a

[8] Differentiated appropriations.

4. SUMMARY OF RESOURCES

4.1. Financial resources (current prices)

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

Type of expenditure	Section No.	2007-2009	2010	2011	2012	2013	2014 -…	Total
Commitment appropriations (CA)	European Refugee Fund	a	82.250	93.530	93.530	112.330		381.640
	Emergency measures	a	9.800	9.800	9.800	9.800		39.200
Payment appropriations (PA)	European Refugee Fund	b	56.479	79.121	68.479	89.121		293.200
	Emergency measures	b	9.800	9.800	9.800	9.800		39.200
Technical and administrative assistance	European Refugee Fund	c	0.500	0.500	0.500	0.500		2.000
Technical and administrative assistance	Emergency measures	c	0.200	0.200	0.200	0.200		0.800
Commitment appropriations		**a+c**	**92.750**	**104.030**	**104.030**	**122.830**		**423.640**
Payment appropriations		**b+c**	**66.979**	**89.621**	**78.979**	**99.621**		**335.200**
Human resources and associated expenditure (NDA)	8.2.5	d	12.680	14.030	15.120	15.380		57.21

Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e	0.761	0.776	0.792	0.808		3.137

TOTAL CA including cost of human resources		a+c+d+e	106.191	118.836	119.942	139.018	483.987
TOTAL PA including cost of human resources		b+c+d+e	80.420	104.427	94.891	115.809	395.547

Co-financing details

If the proposal involves co-financing by Member States or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

Co-financing body		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
……	f							
TOTAL CA including co-financing	a+c +d+ e+f							

4.1.2. Compatibility with financial programming

X Proposal compatible with the future financial programming 2007-2013

☐ Proposal will entail reprogramming of the relevant heading in the financial perspective

☐ Proposal may require application of the provisions of the Interinstitutional Agreement[9] (i.e. flexibility instrument or review of the financial perspective)

4.1.3. Financial impact on revenue

[9] See points 19 and 24 of the Interinstitutional Agreement.

X Proposal has no financial impact on revenue

~~*~~☐ Financial impact - The effect on revenue is as follows:

Note: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

EUR million (to 1 decimal place)

Budget line	Revenue	Prior to action [Year n-1]	Situation following action						
			2007	2008	2009	2010	2011	2012	2013
	a) Revenue in absolute terms								
	b) Change in revenue	*Δ*							

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

4.2. Human Resources FTE (including officials, temporary and external staff) – see details under point 8.2.1.

The details indicated in this section concern the overall General Programme "Solidarity and Management of Migration Flows". Because the Commission has taken into account synergies in human and administrative resources in the management of the four Funds, no individual breakdown for each Fund is given.

Annual requirements	2010	2011	2012	2013
Total number of staff	104	115	124	126

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

This proposal seeks to amend the description of the operations of the European Refugee Fund and the amount allocated for that purpose, in view of the creation of the European Asylum Support Office, which will take over responsibility for some of the operations that have until now been financed as Community actions by the Refugee Fund.

5.2. Value-added of Community involvement and consistency of the proposal with other financial instruments and possible synergy

The European Refugee Fund (ERF) was created by Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" and repealing Council Decision 2004/904/EC[10], on the basis of Article 63(2) of the Treaty establishing the European Community.

The proposal for a Regulation setting up the European Asylum Support Office and this proposal to amend the ERF Decision are part of the European Union's efforts to develop a comprehensive asylum policy. They are a response to the requests from the Council and the European Council for the creation of an asylum support structure and form part of the measures announced by the Policy Plan on Asylum adopted by the Commission in June 2008.

The Commission proposes to set up a European Asylum Support Office which will have the institutional status of a regulatory agency and will be responsible for promoting and enhancing practical cooperation between Member States on asylum matters and for helping to support the implementation of the common asylum system.

The Office's institutional status will be that of a regulatory agency; it will thus be a body set up by the Communities, as provided for in Article 185 of the Financial Regulation. Much of its funding will therefore come from a heading in the general budget of the European Communities. In order to contribute to the funding for the operation of the Office and in the interests of rationalising expenditure, and because the European Asylum Support Office will be responsible for some of the tasks currently funded under the ERF, it is necessary to reduce the budgetary resources currently allocated to the ERF and to lower the limit for funding Community actions from 10% of the Fund's available resources to 4%.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The proposed measures seek to amend the Decision establishing the European Refugee Fund for the period 2008 to 2013 in order to achieve a better allocation and concentration of funds between the ERF and the new European Asylum Support Office, in the interests of simplifying the use of Community funds.

The percentage of funds allocated to the ERF for Community actions, currently 10%, will be reduced to 4% per year from 2010, and the remainder will be available under heading 3A of the financial framework for allocation to the new Office under the annual budgetary procedure, as a contribution towards its funding.

The proposal to amend the ERF Decision does not alter the general objectives of the ERF.

5.4. Methods of implementation (indicative)

Indicate below the method(s) of implementation chosen.

X ***Centralised management***

X directly by the Commission

Î indirectly by delegation to:

Î executive agencies,

[10] OJ L 144, 6.6.2007, pp. 1-21.

bodies set up by the Communities as referred to in Article 185 of the Financial Regulation,

Î national public-sector bodies/bodies with a public-service mission

X ***Shared or decentralised management***

X with Member States

~~X~~ with third countries

6. MONITORING AND EVALUATION

6.1. Monitoring system

N/A

6.2. Evaluation

7. Anti-fraud measures

Direct centralised management by the Commission of the action (Community action, technical assistance expenditure), implemented in accordance with the rules in force, as laid down in the Financial Regulation and the implementing rules. The contracts and grants used will be the models recommended by the Commission and will allow for monitoring by the Commission and the European Court of Auditors.

The general rules on the administrative and financial management of action in the Member States will include specific provisions on the management and control of projects by the authorities responsible and provisions on *ex post* checks by the Commission and the European Court of Auditors.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost (*commitment appropriations in EUR million*)

(Headings of objectives, actions and outputs should be provided)	Type of output	Average cost	2010		2011		2012		2013		Total	
			No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total
European Refugee Fund												
Community actions												
Community actions	Transnational cooperation projects	0.250	15	3.290	18	3.740	18	3.740	22	4.490		
Sub-total Action 1				**3.290**		**3.740**		**3.740**		**4.490**		
Action in the Member States												
Sub-total Action 2				**78.960**		**89.790**		**89.790**		**107.840**	**3 000**	**3**
Sub-total Objective 1				*82.250*		*93.530*		*93.530*		*112.330*		*3*
Emergency measures												
Action in the Member States												
Responsible authorities	Co-financing			1.210		1.210		1.210		1.210		
Emergency measures	Projects			8.590		8.590		8.590		8.590		
Sub-total Action 3				**9.800**		**9.800**		**9.800**		**9.800**		
Sub-total Objective 1				*9.800*		*9.800*		*9.800*		*9.800*		
TOTAL COST				**92.050**		**103.330**		**103.330**		**122.130**		**4**

8.2. Administrative expenditure

The requirements for human and administrative resources will be covered under the allocation granted to the managing DG in the framework of the annual allocation procedure. The details indicated in this section concern the overall General Programme "Solidarity and Management of Migration Flows". Because the Commission has taken into account synergies in human and administrative resources in the management of the four Funds, no individual breakdown for each Fund is given.

8.2.1. Number and type of human resources

Types of post	Staff to be assigned to management of the action using existing and/or additional resources **(number of posts/FTEs)**				
		2010	2011	2012	2013
Officials or temporary staff[11] (XX 01 01)	A*/AD	32	35	37	37.5
	B*, C*/AST	58	64	70	70.5
Staff financed[12] by Article XX 01 02		14	16	17	18
Other staff financed by Article XX 01 04/05					
TOTAL		104	115	124	126

8.2.2. Description of tasks deriving from the action

Title	Description	Number
Management		
Management		4
Policy development and programming		
Policy-making	Strategy development, legal basis	4

[11] Cost of which is NOT covered by the reference amount.

[12] Cost of which is NOT covered by the reference amount.

Programme definition	Establishing annual work programme (i.e. financing decision) and inter-service consultation	1
Interface with relevant EC programmes and actions	Inter-service coordination to ensure complementarity/synergy with others	2
Interface with the other institutions and the Member States	Interface with Council/EP dealing appropriately with reports, information, questions, requests for briefings	2
Information and communication	1. Information and publicity 2. EUROPA website	2
Interface Committee, Presidency and secretariat		1
Budgeting	APS,PDB,AAR,BIP,RAL – Preparation – Follow-up - Report	1.5
Programme: reception, selection and award of projects, financial and legal commitments		
Preparing calls for proposals		2
Reception and evaluation of proposals/multiannual and annual programmes	(also includes staff listed under 12, 13, 14 and 15)	10
Award decisions		0.5
Financial commitment	Preparation, follow-up and closure of all financial commitments + subsequent modifications	2
Legal commitment	Preparation, signature and closure of all legal commitments + subsequent modifications	4
Programme: project monitoring		
Payments - initiation	Preparation and processing of all pre-financing, interim and final payments (including supporting documents for verification)	5
Project monitoring	Reception and evaluation of reports; requests for information, proposed visits	20
Contracts, monitoring and audit		
Ex-ante verification of transactions, establishing control standards	Establishing appropriate control standards	3
Audit system	Setting up and monitoring Member States' audit systems (shared management)	10
Financial audit	Ex-post audit of expenditure / implementation	8
Internal audit	Verification of conformity with ICS	3
Contract procedures	Drafting, procedures and authorisation of procurement procedures for projects and technical assistance (evaluation, studies, …), including JPC, Helpdesk procurement procedures	8
Reporting	Report of authorising officer, RAA, relations with Court of Auditors…	2
Support services		

Filing and archiving	Database, digital and hardcopy filing	3
Programme evaluation	Ex ante - mid-term - final evaluation	3
IT support	Development of specific IT tools related to monitoring and implementation	4
Overheads		
Administration (overheads)	CIS, translations, HRM, logistics …	21
		126

8.2.3. Sources of human resources (statutory)

When more than one source is stated, please indicate the number of posts originating from each of the sources.

X☐ Posts currently allocated to the management of the programme to be replaced or extended

☐ Posts pre-allocated within the APS/PDB exercise for year n

☐ Posts to be requested in the next SPA/PDB procedure

☐ Posts to be redeployed using existing resources within the service concerned (internal redeployment)

☐ Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

The requirements for human and administrative resources will be covered under the allocation granted to the managing DG in the framework of the annual allocation procedure, in the light of existing budgetary constraints.

8.2.4. Other administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

EUR million (to 3 decimal places)

Budget line	2010	2011	2012	2013	TOTAL
European Refugee Fund					
1 Technical and administrative assistance (including related staff costs)					
Other technical and administrative assistance					

Asylum statistics, information exchange, thematic meetings, projects, website, computerised administrative and financial management, including for development and maintenance of computerised management systems	0.250	0.250	0.250	0.250	1.000
Studies (including evaluation)	0.200	0.200	0.150	0.100	0.650
Experts' meetings	0.050	0.050	0.050	0.050	0.200
Publications and information	0.000	0.000	0.050	0.100	0.150
Total	0.500	0.500	0.500	0.500	2.000
Emergency measures					
1 Technical and administrative assistance (including related staff costs)					
Other technical and administrative assistance					
Asylum statistics, thematic meetings, projects, website, computerised administrative and financial management, including for development and maintenance of computerised management systems	0.110	0.110	0.110	0.110	0.440
Studies (including evaluation)	0.080	0.080	0.080	0.080	0.320
Experts' meetings					
Publications and information	0.010	0.010	0.010	0.010	0.040
Total	0.200	0.200	0.200	0.200	0.800

8.2.5. Financial cost of human resources and associated costs not included in the reference amount

EUR million (to 3 decimal places)

Type of human resources	2010	2011	2012	2013	Total
Officials and temporary staff (XX 01 01)	10.98	12.08	13.05	13.18	49.29
Staff financed by Article XX 01 02 (auxiliary, SNE, contract staff, etc.) (indicate the budget line)	1.70	1.95	2.07	2.20	7.92
Total cost of human resources and associated costs (NOT included in reference amount)	**12.680**	**14.030**	**15.120**	**15.380**	**57.210**

Calculation – ***Officials and temporary staff***

Reference should be made to Point 8.2.1, if applicable

Each FTE rated at EUR 122 000 per FTE

Calculation – ***Staff financed under Article XX 01 02***

Reference should be made to Point 8.2.1, if applicable

Each FTE rated at EUR 122 000 per FTE

8.2.6 Other administrative expenditure not included in the reference amount

EUR million (to 3 decimal places)

	2010	2011	2012	2013	TOTAL
XX 01 02 11 01 – Missions	0.243	0.248	0.253	0.258	1.002
XX 01 02 11 02 – Meetings and conferences					
XX 01 02 11 03 – Committees	0.518	0.528	0.539	0.550	2.135
XX 01 02 11 04 - Studies and consultations					
XX 01 02 11 05 - Information systems					
2. Total other management expenditure (XX 01 02 11)	0.761	0.776	0.792	0.808	3.137
3 Other expenditure of an administrative nature (specify including reference to budget line)					
Total administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	**11.993**	**13.197**	**14.184**	**14.416**	**68.015**